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HOUSE BILL 1777

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State of Washington

60th Legislature

2007 Regular Session

By Representatives Rodne, Lantz, Darneille, Kirby, Ahern, Ross, Flannigan, Moeller, Kenney and Morrell; by request of Secretary of State

Read first time 01/26/2007. Referred to Committee on Judiciary.

1 AN ACT Relating to charitable organizations that solicit  
2 contributions from the public; amending RCW 19.09.010, 19.09.020,  
3 19.09.075, 19.09.076, 19.09.079, 19.09.085, 19.09.097, 19.09.100,  
4 19.09.210, and 19.09.440; adding new sections to chapter 19.09 RCW;  
5 prescribing penalties; and repealing RCW 19.09.095.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 19.09.010 and 1986 c 230 s 1 are each amended to read  
8 as follows:

9 The purpose of this chapter is to:

- 10 (1) Provide citizens of the state of Washington with information  
11 relating to persons and organizations who solicit funds from the public  
12 for public charitable purposes in order to prevent ((+1+)) (a)  
13 deceptive and dishonest practices in the conduct of soliciting funds  
14 for or in the name of charity; and ((+2+)) (b) improper use of  
15 contributions intended for charitable purposes;  
16 (2) Improve the transparency and accountability of organizations  
17 that solicit funds from the public for charitable purposes; and  
18 (3) Develop and operate educational programs or partnerships for

1 charitable organizations, board members, and the general public that  
2 help build public confidence and trust in organizations that solicit  
3 funds from the public for charitable purposes.

4 **Sec. 2.** RCW 19.09.020 and 2002 c 74 s 1 are each amended to read  
5 as follows:

6 When used in this chapter, unless the context otherwise requires:

7 (1) A "bona fide officer or employee" of a charitable organization  
8 is one (a) whose conduct is subject to direct control by such  
9 organization; (b) who does not act in the manner of an independent  
10 contractor in his or her relation with the organization; and (c) whose  
11 compensation is not computed on funds raised or to be raised.

12 (2) "Charitable organization" means any entity that solicits or  
13 collects contributions from the general public where the contribution  
14 is or is purported to be used to support a charitable ((activity))  
15 purpose, but does not include any commercial fund raiser ((or)),  
16 commercial fund-raising entity, commercial coventurer, or any fund-  
17 raising counsel, as defined in this section. ((~~"Charitable" (a) is not~~  
18 ~~limited to its common law meaning unless the context clearly requires~~  
19 ~~a narrower meaning; (b) does not include religious or political~~  
20 ~~activities; and (c) includes, but is not limited to, educational,~~  
21 ~~recreational, social, patriotic, legal defense, benevolent, and health~~  
22 ~~causes.~~))

23 (3) "Charitable purpose" means any religious, charitable,  
24 scientific, testing for public safety, literary, or educational purpose  
25 or any other purpose that is beneficial to the community, including  
26 environmental, humanitarian, patriotic, or civic purposes, the support  
27 of national or international amateur sports competition, the prevention  
28 of cruelty to children or animals, the advancement of social welfare,  
29 or the benefit of law enforcement personnel, firefighters, and other  
30 persons who protect public safety. The term "charitable" is used in  
31 its generally accepted legal sense and includes relief of the poor, the  
32 distressed, or the underprivileged; advancement of religion;  
33 advancement of education or science; erecting or maintaining public  
34 buildings, monuments, or works; lessening the burdens of government;  
35 lessening neighborhood tensions; eliminating prejudice and  
36 discrimination; defending human and civil rights secured by law; and  
37 combating community deterioration and juvenile delinquency.

1       (4) "Church" means a place of worship, including mosques and  
2 synagogues, and also includes conventions, associations of churches,  
3 and integrated auxiliaries of a church.

4       (5) "Commercial coventurer" means any individual or corporation,  
5 partnership, sole proprietorship, limited liability company, limited  
6 partnership, limited liability partnership, or any other legal entity,  
7 that:

8       (a) Is regularly and primarily engaged in making sales of goods or  
9 services for profit directly to the general public;

10       (b) Is not otherwise regularly or primarily engaged in making  
11 charitable solicitations in this state or otherwise raising funds in  
12 this state for one or more charitable organizations;

13       (c) Represents to prospective purchasers that, if they purchase a  
14 good or service from the commercial coventurer, a portion of the sales  
15 price or a sum of money or some other specified thing of value will be  
16 donated to a named charitable organization; and

17       (d) Does not ask purchasers to make checks or other instruments  
18 payable to a named charitable organization or any entity other than the  
19 commercial coventurer itself under its regular commercial name.

20       (6) "Commercial fund raiser" or "commercial fund-raising entity"  
21 means any entity that for compensation or other consideration within  
22 this state directly or indirectly solicits or receives contributions  
23 for or on behalf of any charitable organization or charitable purpose,  
24 or that is engaged in the business of or is held out to persons in this  
25 state as independently engaged in the business of soliciting or  
26 receiving contributions for such purposes. However, a commercial  
27 coventurer, fund-raising counsel, or consultant is not a commercial  
28 fund raiser or commercial fund-raising entity.

29       (7) "Compensation" means salaries, wages, fees, commissions, or any  
30 other remuneration or valuable consideration.

31       ~~((4))~~ (8) "Contribution" means the payment, donation, promise, or  
32 grant, for consideration or otherwise, of any money or property of any  
33 kind or value which contribution is wholly or partly induced by a  
34 solicitation. Reference to dollar amounts of "contributions" or  
35 "solicitations" in this chapter means in the case of payments or  
36 promises to pay for merchandise or rights of any description, the value  
37 of the total amount paid or promised to be paid for such merchandise or  
38 rights ~~((less the reasonable purchase price to the charitable~~

1 ~~organization of any such tangible merchandise, rights, or services~~  
2 ~~resold by the organization, and not merely that portion of the purchase~~  
3 ~~price to be applied to a charitable purpose)).~~

4 ~~((+5))~~ (9) "Cost of solicitation" means and includes all direct  
5 and indirect costs, expenditures, debts, obligations, salaries, wages,  
6 commissions, fees, or other money or thing of value paid or incurred in  
7 making a solicitation. ~~((Cost of solicitation does not include the~~  
8 ~~reasonable purchase price to the charitable organization of any~~  
9 ~~tangible goods or services resold by the organization as a part of its~~  
10 ~~fund raising activities.~~

11 ~~(+6))~~ (10) "Entity" means an individual, organization, group,  
12 association, partnership, corporation, agency or unit of state  
13 government, or any combination thereof.

14 ~~((+7) "General public" or "public" means any individual located in~~  
15 ~~Washington state without a membership or other official relationship~~  
16 ~~with a charitable organization before a solicitation by the charitable~~  
17 ~~organization.~~

18 ~~(+8) "Commercial fund raiser" or "commercial fund raising entity"~~  
19 ~~means any entity that for compensation or other consideration within~~  
20 ~~this state directly or indirectly solicits or receives contributions~~  
21 ~~for or on behalf of any charitable organization or charitable purpose,~~  
22 ~~or that is engaged in the business of or is held out to persons in this~~  
23 ~~state as independently engaged in the business of soliciting or~~  
24 ~~receiving contributions for such purposes. However, the following~~  
25 ~~shall not be deemed a commercial fund raiser or "commercial fund-~~  
26 ~~raising entity": (a) Any entity that provides fund raising advice or~~  
27 ~~consultation to a charitable organization within this state but neither~~  
28 ~~directly nor indirectly solicits or receives any contribution for or on~~  
29 ~~behalf of any such charitable organization; and (b) a bona fide officer~~  
30 ~~or other employee of a charitable organization.~~

31 ~~(+9))~~ (11) "Fund-raising counsel" or "consultant" means any entity  
32 or individual who is retained by a charitable organization, for a fixed  
33 fee or rate, that is not computed on a percentage of funds raised, or  
34 to be raised, under a written agreement only to plan, advise, consult,  
35 or prepare materials for a solicitation of contributions in this state,  
36 but who does not manage, conduct, or carry on a fund-raising campaign  
37 and who does not solicit contributions or employ, procure, or engage  
38 any compensated person to solicit contributions, and who does not at

1 any time have custody or control of contributions. A volunteer,  
2 employee, or salaried officer of a charitable organization maintaining  
3 a permanent establishment or office in this state is not a fund-raising  
4 counsel. An attorney, investment counselor, or banker who advises an  
5 individual, corporation, or association to make a charitable  
6 contribution is not a fund-raising counsel as a result of the advice.

7 (12) "General public" or "public" means any individual located in  
8 Washington state without a membership or other official relationship  
9 with a charitable organization before a solicitation by the charitable  
10 organization.

11 (13) "Integrated auxiliaries" means a class of organizations that  
12 are related to, but are not, a church or convention or association of  
13 churches. The organization must:

14 (a) Be affiliated with a church or convention or association of  
15 churches; and

16 (b) Receive financial support primarily from internal church  
17 sources as opposed to public or governmental sources.

18 (14) "Membership" means that for the payment of fees, dues,  
19 assessments, etc., an organization provides services and confers a bona  
20 fide right, privilege, professional standing, honor, or other direct  
21 benefit, in addition to the right to vote, elect officers, or hold  
22 office. The term "membership" does not include those persons who are  
23 granted a membership upon making a contribution as the result of  
24 solicitation.

25 ~~((+10))~~ (15) "Other employee" of a charitable organization means  
26 any person (a) whose conduct is subject to direct control by such  
27 organization; (b) who does not act in the manner of any independent  
28 contractor in his or her relation with the organization; and (c) who is  
29 not engaged in the business of or held out to persons in this state as  
30 independently engaged in the business of soliciting contributions for  
31 charitable purposes or religious ~~((purposes))~~ activities.

32 ~~((+11))~~ "Parent organization" means that part of a charitable  
33 organization that coordinates, supervises, or exercises control over  
34 policy, fund raising, or expenditures, or assists or advises one or  
35 more related foundations, supporting organizations, chapters, branches,  
36 or affiliates of such organization in the state of Washington.

37 ~~(+12))~~ (16) "Political ~~((activities))~~ organization" means those

1 organizations whose activities are subject to chapter 42.17 RCW or the  
2 Federal Elections Campaign Act of 1971, as amended.

3 ~~((13) "Religious activities" means those religious, evangelical,~~  
4 ~~or missionary activities under the direction of a religious~~  
5 ~~organization duly organized and operating in good faith that are~~  
6 ~~entitled to receive a declaration of current tax exempt status for~~  
7 ~~religious purposes from the United States government and the duly~~  
8 ~~organized branches or chapters of those organizations.~~

9 ~~(14))~~ (17) "Religious organization" means those entities that are  
10 not churches or integrated auxiliaries and include nondenominational  
11 ministries, interdenominational and ecumenical organizations, mission  
12 organizations, speakers' organizations, faith-based social agencies,  
13 and other entities whose principal purpose is the study, practice, or  
14 advancement of religion.

15 (18) "Secretary" means the secretary of state.

16 ~~((15))~~ (19) "Signed" means hand-written, or, if the secretary  
17 adopts rules facilitating electronic filing that pertain to this  
18 chapter, in the manner prescribed by those rules.

19 ~~((16))~~ (20)(a) "Solicitation" means any oral or written request  
20 for a contribution, including the solicitor's offer or attempt to sell  
21 any property, rights, services, or other thing in connection with  
22 which:

23 ~~((a))~~ (i) Any appeal is made for any charitable purpose; ~~((or~~  
24 ~~(b))~~ (ii) The name of any charitable organization is used as an  
25 inducement for consummating the sale; or

26 ~~((c))~~ (iii) Any statement is made that implies that the whole or  
27 any part of the proceeds from the sale will be applied toward any  
28 charitable purpose or donated to any charitable organization.

29 (b) The solicitation shall be deemed completed when made, whether  
30 or not the person making it receives any contribution or makes any  
31 sale.

32 (c) "Solicitation" does not include bingo activities, raffles, and  
33 amusement games conducted under chapter 9.46 RCW and applicable rules  
34 of the Washington state gambling commission ~~((are specifically excluded~~  
35 ~~and shall not be deemed a solicitation under this chapter)).~~

36 **Sec. 3.** RCW 19.09.075 and 2002 c 74 s 2 are each amended to read  
37 as follows:

1 An application for registration as a charitable organization shall  
2 be submitted in the form prescribed by rule by the secretary,  
3 containing, but not limited to, the following:

4 (1) The name, address, and telephone number of the charitable  
5 organization;

6 (2) The name(s) under which the organization will solicit  
7 contributions;

8 (3) The name, address, and telephone number of the officers of or  
9 persons accepting responsibility for the organization;

10 (4) The names of the three officers or employees receiving the  
11 greatest amount of compensation from the organization;

12 (5) The purpose of the organization;

13 (6)(a) Whether the organization is exempt from federal income tax;  
14 and if so the organization shall attach to its application a copy of  
15 the letter by which the internal revenue service granted such status;  
16 and

17 (b) The name and address of the entity that prepares, reviews, or  
18 audits the financial statement of the organization;

19 (7) A solicitation report of the organization for the preceding  
20 accounting year including:

21 (a) The ~~((number and))~~ types of solicitations conducted;

22 (b) The total dollar value of ~~((support))~~ contributions received  
23 from solicitations and from all other sources received on behalf of the  
24 charitable purpose of the charitable organization;

25 (c) The total amount of money applied to charitable purposes, fund  
26 raising costs, and other expenses; and

27 (d) The name, address, and telephone number of any commercial fund  
28 raiser used by the organization;

29 (8) An irrevocable appointment of the secretary to receive service  
30 of process in noncriminal proceedings as provided in RCW 19.09.305; and

31 (9) The total revenue of the preceding fiscal year.

32 The solicitation report required to be submitted under subsection  
33 (7) of this section shall be in the form prescribed by rule by the  
34 secretary, or as agreed to by the secretary and a charitable  
35 organization ~~((or a group of charitable organizations. A consolidated  
36 application for registration may, at the option of the charitable  
37 organization, be submitted by a parent organization for itself and any~~

1 ~~or all of its related foundations, supporting organizations, chapters,~~  
2 ~~branches, or affiliates in the state of Washington.~~

3 ~~The application shall be signed by)).~~ The president, treasurer, or  
4 comparable officer of the organization must sign and date the  
5 application. The application shall be submitted with a nonrefundable  
6 filing fee which shall be in an amount to be established by the  
7 secretary by rule. In determining the amount of this application fee,  
8 the secretary may consider factors such as the entity's annual budget  
9 and its federal income tax status. If the secretary determines that  
10 the application is complete, the application shall be filed and the  
11 applicant deemed registered.

12 ~~((The secretary shall notify the director of veterans' affairs upon~~  
13 ~~receipt of an application for registration as a charitable organization~~  
14 ~~from an entity that purports to raise funds to benefit veterans of the~~  
15 ~~United States military services. The director of veterans' affairs may~~  
16 ~~advise the secretary and the attorney general of any information,~~  
17 ~~reports, or complaints regarding such an organization.))~~

18 **Sec. 4.** RCW 19.09.076 and 1994 c 287 s 1 are each amended to read  
19 as follows:

20 (1) The application requirements of RCW 19.09.075 do not apply to  
21 ~~((the following)):~~

22 ~~((1))~~ (a) Any charitable organization raising less than an amount  
23 as set by rule adopted by the secretary in any accounting year when all  
24 the activities of the organization, including all fund raising  
25 activities, are carried on by persons who are unpaid for their services  
26 and no part of the charitable organization's assets or income inures to  
27 the benefit of or is paid to any officer or member of the organization;

28 ~~((2) Any charitable organization located outside of the state of~~  
29 ~~Washington if the organization files the following with the secretary:~~

30 ~~(a) The registration documents required under the charitable~~  
31 ~~solicitation laws of the state in which the charitable organization is~~  
32 ~~located;~~

33 ~~(b) The registration required under the charitable solicitation~~  
34 ~~laws of the state of California and the state of New York; and~~

35 ~~(c) Such federal income tax forms as may be required by rule of the~~  
36 ~~secretary.))~~

37 (b) Churches and integrated auxiliaries;

1 (c) Political organizations; or

2 (d) Appeals for funds on behalf of a specific individual named in  
3 the solicitation, but only if all of the proceeds of the solicitation  
4 are given to or expended for the direct benefit of that individual.

5 (2) All entities soliciting (~~(charitable donations)~~) contributions  
6 for charitable purposes shall comply with the requirements of RCW  
7 19.09.100.

8 **Sec. 5.** RCW 19.09.079 and 1993 c 471 s 5 are each amended to read  
9 as follows:

10 An application for registration as a commercial fund raiser shall  
11 be submitted in the form prescribed by the secretary, containing, but  
12 not limited to, the following:

13 (1) The name, address, and telephone number of the commercial fund-  
14 raising entity;

15 (2) The name(s), address(es), and telephone number(s) of the  
16 owner(s) and principal officer(s) of the commercial fund-raising  
17 entity;

18 (3) The name, address, and telephone number of the individual  
19 responsible for the activities of the commercial fund-raising entity in  
20 Washington;

21 ~~(4) ((A list of states and Canadian provinces in which fund raising~~  
22 ~~has been performed;~~

23 ~~(5))~~ The names of the three officers or employees receiving the  
24 greatest amount of compensation from the commercial fund-raising  
25 entity;

26 ~~((6))~~ (5) The name and address of the entity that prepares,  
27 reviews, or audits the financial statement of the organization;

28 ~~((7))~~ (6) A solicitation report of the commercial fund-raising  
29 entity for the preceding accounting year, including:

30 (a) The ~~((number and))~~ types of fund raising services conducted;

31 (b) The names of charitable organizations required to register  
32 under RCW 19.09.065 for whom fund raising services have been performed;

33 (c) The total value of contributions received on behalf of  
34 charitable organizations required to register under RCW 19.09.065 by  
35 the commercial fund raiser, affiliate of the commercial fund raiser, or  
36 any entity retained by the commercial fund raiser; and

1 (d) The amount of money disbursed to charitable organizations for  
2 charitable purposes, net of fund raising costs paid by the charitable  
3 organization as stipulated in any agreement between charitable  
4 organizations and the commercial fund raiser;

5 ~~((+8+))~~ (7) The name, address, and telephone number of any  
6 commercial fund raiser that was retained in the conduct of providing  
7 fund raising services; and

8 ~~((+9+))~~ (8) An irrevocable appointment of the secretary to receive  
9 service of process in noncriminal proceedings as provided in RCW  
10 19.09.305.

11 The application shall be signed by an officer or owner of the  
12 commercial fund raiser and shall be submitted with a nonrefundable fee  
13 in an amount to be established by rule of the secretary. If the  
14 secretary determines that the application is complete, the application  
15 shall be filed and the applicant deemed registered.

16 **Sec. 6.** RCW 19.09.085 and 1993 c 471 s 6 are each amended to read  
17 as follows:

18 (1) Registration under this chapter shall be effective for one year  
19 or longer, as established by the secretary.

20 (2) Reregistration required under RCW 19.09.075 or 19.09.079 shall  
21 be submitted to the secretary no later than the date established by the  
22 secretary by rule.

23 (3) Entities required to register under this chapter shall file a  
24 notice of change of information within thirty days of any change in the  
25 information contained in RCW 19.09.075 (1) through ~~((+6+))~~ (9) or  
26 19.09.079 (1) through ~~((+6+))~~ (7).

27 (4) The secretary shall notify entities registered under this  
28 chapter of the need to reregister upon the expiration of their current  
29 registration. The notification shall be by mail, sent at least sixty  
30 days prior to the expiration of their current registration. Failure to  
31 register shall not be excused by a failure of the secretary to mail the  
32 notice or by an entity's failure to receive the notice.

33 **Sec. 7.** RCW 19.09.097 and 1993 c 471 s 7 are each amended to read  
34 as follows:

35 (1) No charitable organization may contract with a commercial fund  
36 raiser for any fund raising service or activity unless its contract

1 requires that both parties comply with the law and permits officers of  
2 the charity reasonable access to: (a) The fund raisers' financial  
3 records relating to that charitable organization; (~~and~~) (b) the fund  
4 raisers' operations including without limitation the right to be  
5 present during any telephone solicitation; and (c) the names of all of  
6 the fund raisers' employees or staff who are conducting fund raising or  
7 charitable solicitations on behalf of the charitable organization. In  
8 addition, the contract shall specify the amount of raised funds that  
9 the charitable organization will receive or the method of computing  
10 that amount, the amount of compensation of the commercial fund raiser  
11 or the method of computing that amount, and whether the compensation is  
12 fixed or contingent.

13 (2) Before a charitable organization may contract with a commercial  
14 fund raiser for any fund raising service or activity, the charitable  
15 organization and commercial fund raiser shall complete and file a  
16 registration form with the secretary. The registration shall be filed  
17 by the charitable organization (~~(with the secretary,~~) in the form  
18 prescribed by the secretary(~~(, within five working days of the~~  
19 ~~execution of the contract containing,~~). The registration shall  
20 contain, but not be limited to, the following information:

21 (a) The name and registration number of the commercial fund raiser;

22 (b) The name of the surety or sureties issuing the bond required by  
23 RCW 19.09.190, the aggregate amount of such bond or bonds, the bond  
24 number(s), original effective date(s), and termination date(s);

25 (c) The name and registration number of the charitable  
26 organization;

27 (d) The name of the representative of the commercial fund raiser  
28 who will be responsible for the conduct of the fund raising;

29 (e) The type(s) of service(s) to be provided by the commercial fund  
30 raiser;

31 (f) The dates such service(s) will begin and end;

32 (g) The terms of the agreement between the charitable organization  
33 and commercial fund raiser relating to:

34 (i) Amount or percentages of amounts to inure to the charitable  
35 organization;

36 (ii) Limitations placed on the maximum amount to be raised by the  
37 fund raiser, if the amount to inure to the charitable organization is  
38 not stated as a percentage of the amount raised;

1 (iii) Costs of fund raising that will be the responsibility of the  
2 charitable organization, regardless of whether paid as a direct  
3 expense, deducted from the amounts disbursed, or otherwise; and

4 (iv) The manner in which contributions received directly by the  
5 charitable organization, not the result of services provided by the  
6 commercial fund raiser, will be identified and used in computing the  
7 fee owed to the commercial fund raiser; and

8 (h) The names of any entity to which more than ten percent of the  
9 total anticipated fund raising cost is to be paid, and whether any  
10 principal officer or owner of the commercial fund raiser or relative by  
11 blood or marriage thereof is an owner or officer of any such entity.

12 (3) A correct copy of the contract shall be filed with the  
13 secretary before the commencement of any campaign.

14 (4) The registration form shall be submitted with a nonrefundable  
15 filing fee in an amount to be established by rule of the secretary and  
16 shall be signed by an owner or principal officer of the commercial fund  
17 raiser and the president, treasurer, or comparable officer of the  
18 charitable organization.

19 **Sec. 8.** RCW 19.09.100 and 1994 c 287 s 2 are each amended to read  
20 as follows:

21 The following conditions apply to solicitations as defined by RCW  
22 19.09.020:

23 (1) A charitable organization, whether or not required to register  
24 pursuant to this chapter, that directly solicits contributions from the  
25 public in this state shall make the following clear and conspicuous  
26 disclosures at the point of solicitation:

27 (a) The name of the individual making the solicitation;

28 (b) The identity of the charitable organization and the city of the  
29 principal place of business of the charitable organization;

30 (c) If requested by the solicitee, the published number in the  
31 office of the secretary for the donor to obtain additional financial  
32 disclosure information on file with the secretary.

33 (2) A commercial fund raiser shall clearly and conspicuously  
34 disclose at the point of solicitation:

35 (a) The name of the individual making the solicitation;

36 (b) The name of the entity for which the fund raiser is an agent or

1 employee and the name and city of the charitable organization for which  
2 the solicitation is being conducted; and

3 (c) If requested by the solicitee, the published number in the  
4 office of the secretary for the donor to obtain additional financial  
5 disclosure information on file with the secretary. The disclosure must  
6 be made during an oral solicitation of a contribution, and at the same  
7 time at which a written request for a contribution is made.

8 (3) A person or organization soliciting charitable contributions by  
9 telephone shall make the disclosures required under subsection (1) or  
10 (2) of this section in the course of the solicitation but prior to  
11 asking for a commitment for a contribution from the solicitee, and in  
12 writing to any solicitee that makes a pledge within five working days  
13 of making the pledge. If the person or organization sends any  
14 materials to the person or organization solicited before the receipt of  
15 any contribution, those materials shall include the disclosures  
16 required in subsection (1) or (2) of this section, whichever is  
17 applicable.

18 (4) In the case of a solicitation by advertisement or mass  
19 distribution, including posters, leaflets, automatic dialing machines,  
20 publication, and audio or video broadcasts, it shall be clearly and  
21 conspicuously disclosed in the body of the solicitation material that:

22 (a) The solicitation is conducted by a named commercial fund  
23 raiser, if it is;

24 (b) The notice of solicitation required by the charitable  
25 solicitation act is on file with the secretary's office; and

26 (c) The potential donor can obtain additional financial disclosure  
27 information at a published number in the office of the secretary.

28 (5) A container or vending machine displaying a solicitation must  
29 also display in a clear and conspicuous manner the name of the  
30 charitable organization for which funds are solicited, the name,  
31 business address, and telephone number of the individual and any  
32 commercial fund raiser responsible for collecting funds placed in the  
33 containers or vending machines, and the following statement: "This  
34 charity is currently registered with the secretary's office under the  
35 charitable solicitation act, registration number . . . ."

36 (6) A commercial fund raiser shall not represent that tickets to  
37 any fund raising event will be donated for use by another person unless  
38 all the following requirements are met:

1 (a) The commercial fund raiser prior to conducting a solicitation  
2 has written commitments from persons stating that they will accept  
3 donated tickets and specifying the number of tickets they will accept;

4 (b) The written commitments are kept on file by the commercial fund  
5 raiser for three years and are made available to the secretary,  
6 attorney general, or county prosecutor on demand;

7 (c) The contributions solicited for donated tickets may not be more  
8 than the amount representing the number of ticket commitments received  
9 from persons and kept on file under (a) of this subsection; and

10 (d) Not later than seven calendar days prior to the date of the  
11 event for which ticket donations are solicited, the commercial fund  
12 raiser shall give all donated tickets to the persons who made the  
13 written commitments to accept them.

14 (7) Each person or organization soliciting charitable contributions  
15 shall not represent orally or in writing that:

16 (a) The charitable contribution is tax deductible unless the  
17 charitable organization for which charitable contributions are being  
18 solicited or to which tickets for fund raising events or other services  
19 or goods will be donated, has applied for and received from the  
20 internal revenue service a letter of determination granting tax  
21 deductible status to the charitable organization;

22 (b) The person soliciting the charitable contribution is a  
23 volunteer or words of similar meaning or effect that create the  
24 impression that the person soliciting is not a paid solicitor unless  
25 such person is unpaid for his or her services;

26 (c) The person soliciting the charitable contribution is a member,  
27 staffer, helper, or employee of the charitable organization or words of  
28 similar meaning or effect that create the impression that the person  
29 soliciting is not a paid solicitor if the person soliciting is  
30 employed, contracted, or paid by a commercial fund raiser.

31 (8) If the charitable organization is associated with, or has a  
32 name that is similar to, any unit of government each person or  
33 organization soliciting contributions shall disclose to each person  
34 solicited whether the charitable organization is or is not part of any  
35 unit of government and the true nature of its relationship to the unit  
36 of government. This subsection does not apply to a foundation or other  
37 charitable organization that is organized, operated, or controlled by

1 or in connection with a registered public charity, including any  
2 governmental agency or unit, from which it derives its name.

3 (9) No person may, in conducting any solicitation, use the name  
4 "police," "sheriff," "firefighter," "firemen," or a similar name unless  
5 properly authorized by a bona fide police, sheriff, or firefighter  
6 organization or police, sheriff, or fire department. A proper  
7 authorization shall be in writing and signed by two authorized  
8 officials of the organization or department and shall be filed with the  
9 secretary.

10 (10) A person may not, in conducting any solicitation, use the name  
11 of a federally chartered or nationally recognized military veterans'  
12 service organization as determined by the United States veterans'  
13 administration unless authorized in writing by the highest ranking  
14 official of that organization in this state.

15 (11) A charitable organization shall comply with all local  
16 governmental regulations that apply to soliciting for or on behalf of  
17 charitable organizations.

18 (12) The advertising material and the general promotional plan for  
19 a solicitation shall not be false, misleading, or deceptive, and shall  
20 afford full and fair disclosure.

21 (13) Solicitations shall not be conducted by a charitable  
22 organization or commercial fund raiser that has, or if a corporation,  
23 its officers, directors, or principals have, been convicted of a crime  
24 involving solicitations for or on behalf of a charitable organization  
25 in this state, the United States, or any other state or foreign country  
26 within the past ten years or has been subject to any permanent  
27 injunction or administrative order or judgment under RCW 19.86.080 or  
28 19.86.090, involving a violation or violations of RCW 19.86.020, within  
29 the past ten years, or of restraining a false or misleading promotional  
30 plan involving solicitations for charitable organizations.

31 (14) No charitable organization or commercial fund raiser subject  
32 to this chapter may use or exploit the fact of registration under this  
33 chapter so as to lead the public to believe that registration  
34 constitutes an endorsement or approval by the state, but the use of the  
35 following is not deemed prohibited: "Currently registered with the  
36 Washington state secretary of state as required by law. Registration  
37 number . . . ."

1 (15) No entity may engage in any solicitation for contributions for  
2 or on behalf of any charitable organization or commercial fund raiser  
3 unless the charitable organization or commercial fund raiser is  
4 currently registered with the secretary.

5 (16) No entity may engage in any solicitation for contributions  
6 unless it complies with all provisions of this chapter.

7 (17)~~((a))~~ No entity may place a telephone call to a donor or  
8 potential donor for the purpose of charitable solicitation ~~((that will~~  
9 ~~be received by the solicitee))~~ before eight o'clock a.m. or after nine  
10 o'clock p.m. pacific time.

11 ~~((b))~~ (18) No entity may, ~~((while placing a telephone call))~~ when  
12 contacting a donor or potential donor for the purpose of charitable  
13 solicitation, engage in any conduct the natural consequence of which is  
14 to harass, intimidate, or torment any person in connection with the  
15 ~~((telephone call))~~ contact.

16 ~~((18))~~ (19) Failure to comply with subsections (1) through  
17 ~~((17))~~ (18) of this section is a violation of this chapter.

18 **Sec. 9.** RCW 19.09.210 and 1993 c 471 s 12 are each amended to read  
19 as follows:

20 Upon the request of the attorney general or the county prosecutor,  
21 a charitable organization or commercial fund raiser shall submit a  
22 financial statement containing, but not limited to, the following  
23 information:

24 (1) The gross amount of the contributions pledged and the gross  
25 amount collected.

26 (2) The amount thereof, given or to be given to charitable purposes  
27 represented together with details as to the manner of distribution as  
28 may be required.

29 (3) The aggregate amount paid and to be paid for the expenses of  
30 such solicitation.

31 (4) The amounts paid to and to be paid to commercial fund raisers  
32 or charitable organizations.

33 (5) Copies of any annual or periodic reports furnished by the  
34 charitable organization~~((r))~~ of its activities during or for the same  
35 fiscal period~~((, to its parent organization, subsidiaries, or~~  
36 ~~affiliates, if any))~~.

1       **Sec. 10.** RCW 19.09.440 and 1993 c 471 s 42 are each amended to  
2 read as follows:

3       (1) Annually, the secretary of state shall publish a report  
4 indicating:

5       (a) For each charitable organization registered under RCW  
6 (~~19.09.065~~) 19.09.075 the percentage relationship between (i) the  
7 total amount of money applied to charitable purposes; and (ii) the  
8 dollar value of (~~support received from solicitations and received from~~  
9 ~~all other sources on behalf of the charitable purpose of the~~  
10 ~~organization~~) total expenditures, including the total amount of money  
11 applied to charitable purposes, fund raising costs, and administrative  
12 expenses;

13       (b) For each commercial fund raiser registered under RCW  
14 (~~19.09.065~~) 19.09.079 the percentage relationship between (i) the  
15 amount of money disbursed to charitable organizations for charitable  
16 purposes; and (ii) the total value of contributions received on behalf  
17 of charitable organizations by the commercial fund raiser; and

18       (c) Such other information as the secretary of state deems  
19 appropriate.

20       (2) The secretary of state may use the latest information obtained  
21 pursuant to RCW 19.09.075, 19.09.079, or otherwise under chapter 19.09  
22 RCW to prepare the report.

23       NEW SECTION. **Sec. 11.** A new section is added to chapter 19.09 RCW  
24 to read as follows:

25       Charitable organizations must ensure that their boards, or a  
26 committee thereof, have reviewed and accepted any financial report that  
27 the organization may be required to file with the office of the  
28 secretary. Charitable organizations must also ensure that the  
29 financial information included in the filing fairly represents, in all  
30 material respects, the financial condition and results of operations of  
31 the organization as of, and for, the periods presented to the secretary  
32 for filing. If the financial information submitted to the secretary is  
33 incorrect in any material way, the charitable organization may be  
34 subject to penalties as provided under RCW 19.09.279.

35       NEW SECTION. **Sec. 12.** A new section is added to chapter 19.09 RCW  
36 to read as follows:

1 The secretary may, in conjunction with the attorney general,  
2 develop and operate an education program for charitable organizations,  
3 their board members, and the general public. To the extent  
4 practicable, the secretary shall consult with the nonprofit and  
5 charitable sector and the charitable advisory council created in  
6 section 15 of this act to develop curriculum and other materials  
7 intended to educate charitable organizations, their board members, and  
8 the general public.

9 NEW SECTION. **Sec. 13.** A new section is added to chapter 19.09 RCW  
10 to read as follows:

11 To provide for a charitable organization education program as  
12 authorized in section 12 of this act, the secretary may establish fees  
13 on registrations for entities filing with the secretary as  
14 organizations pursuant to this chapter. The fees authorized in this  
15 section are in addition to the existing fees established by the  
16 secretary in rule for organizations required to register under this  
17 chapter.

18 NEW SECTION. **Sec. 14.** A new section is added to chapter 19.09 RCW  
19 to read as follows:

20 The secretary is authorized to adopt rules, in accordance with  
21 chapter 34.05 RCW, that establish a set of tiered independent financial  
22 reporting requirements for charitable organizations required to  
23 register with the secretary pursuant to this chapter. Rules adopted  
24 under this section shall include, but not be limited to, substantially  
25 the following:

26 (1) An initial filing requirement for all charitable organizations  
27 as currently required in this chapter;

28 (2) A financial reporting requirement for charitable organizations  
29 that have more than one million dollars in annual gross revenue  
30 averaged over the last three fiscal years. The secretary may require  
31 charitable organizations that meet this threshold to have the federal  
32 financial reporting forms the organization normally files to be  
33 completed or reviewed by a third party who normally prepares or reviews  
34 the forms in the ordinary course of their business. These forms must  
35 be submitted to the secretary; and

1 (3) A financial reporting requirement for charitable organizations  
2 with more than three million dollars in annual gross revenue averaged  
3 over the last three fiscal years. The secretary may require charitable  
4 organizations that meet this threshold to submit to the secretary  
5 audited financial statements prepared by an independent certified  
6 public accountant.

7 NEW SECTION. **Sec. 15.** A new section is added to chapter 19.09 RCW  
8 to read as follows:

9 (1) The secretary is authorized to create a charitable advisory  
10 council to consist of at least eleven, but not more than twenty-one,  
11 members. Members of a charitable advisory council shall:

12 (a) Be appointed by the secretary, with all members serving at the  
13 pleasure of the secretary and all terms expiring no later than the term  
14 of the appointing secretary;

15 (b) Represent a broad range of charities by size, purpose,  
16 geographic region of the state, and general expertise in the management  
17 and leadership of charitable organizations; and

18 (c) Annually vote to elect one of its members to serve as  
19 chairperson.

20 (2) The secretary shall not compensate members of the charitable  
21 advisory council but may provide reimbursement to members for expenses  
22 that are incurred in the conduct of their official duties.

23 (3) The charitable advisory council shall advise the secretary in  
24 determining training and educational needs of charitable organizations  
25 and model policies related to governance and administration of  
26 charitable organizations in accordance with fiduciary principles,  
27 assist the secretary in identifying emerging issues and trends  
28 affecting charitable organizations, and advise the secretary on other  
29 related issues at the request of the secretary.

30 NEW SECTION. **Sec. 16.** A new section is added to chapter 19.09 RCW  
31 to read as follows:

32 (1) The secretary may enter into reciprocal agreements with the  
33 appropriate authority of any other state for the purpose of exchanging  
34 information with respect to charitable organizations and commercial  
35 fund raisers.

36 (2) Pursuant to such agreements the secretary may:

1 (a) Accept information filed by a charitable organization or  
2 commercial fund raisers with the appropriate authority of another state  
3 in lieu of the information required to be filed in accordance with this  
4 chapter, if the information is substantially similar to the information  
5 required under this chapter; and

6 (b) Grant exemptions from the requirements for the filing of annual  
7 registration statements with the office to charitable organizations  
8 organized under the laws of another state having their principal place  
9 of business outside this state whose funds are derived principally from  
10 sources outside this state and that have been exempted from the filing  
11 of registration statements by the statute under whose laws they are  
12 organized if such a state has a statute similar in substance to this  
13 chapter.

14 (3) The secretary may adopt rules relating to reciprocal agreements  
15 consistent with this section.

16 NEW SECTION. **Sec. 17.** RCW 19.09.095 (Subsidiary organizations--  
17 Requirement to register--Exemptions) and 1986 c 230 s 9 & 1983 c 265 s  
18 6 are each repealed.

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